tion of innocence and be entitled to his discharge in the absence of any evidence adduced for or against him. JUDGE WING'S conclusion in *United States* v. *Hung Chang,* 126 Fed. Rep. 400, would seem to be correct, that the proceeding is criminal in its nature at least with respect to the determination of this preliminary question. He says "When therefore the question is raised as to whether or not a particular individual is a Chinese person and an alien * * * upon the solution of that issue depends the existence or non-existence in favor of that individual, of constitutional rights which would prevent his deportation." In the case in question, the defendant was compelled to testify as to his birth, nationality and occupation, some or all of which facts were material in placing him within the forbidden class and casting upon him the burden of proving his right to remain. This evidence would seem to have been inadmissible on the question of the status of the defendant.

FALSE IMPRISONMENT—JOINDER OF CAUSES OF ACTION.—The plaintiff brought this action against three defendants to recover damages alleged to have been sustained in consequence of their wrongful acts resulting in his arrest and temporary confinement in the police station in the city of Yonkers. Plaintiff alleges in his complaint, (1) that the defendant Scheibel, a policeman, arrested the plaintiff without a warrant in the city of Yonkers for hawking without a license, whereas he had a license, and took him to the station house; (2) that the defendant Lent, the sergeant in charge of the station house, locked him up; (3) that the defendant Woodruff, the captain and commander of the police force was sent for and informed by the plaintiff of the said facts of his false arrest and imprisonment, but refused to discharge the plaintiff, and detained him all night. At the end there is an allegation that the acts of the defendants were "willful and concerted." Defendants each demurred to the complaint upon the ground: that there was an improper joinder of several causes of action which said causes of action do not affect all of the said parties. *Held,* that the demurrers must be overruled in that the complaint alleges only one cause of action against the defendants. *Eglesston* v. *Scheibel et al.* (1906), 99 N. Y. Supp. 969.

The theory of the case as held was that there was one continuous trespass only, and not several trespasses. If an officer falsely arrests a person and starts with him to the station house, every officer or other person who joins with him in the tort at successive intervals and places on the way, and the officer in charge at the station house who receives the arrested person from them and locks him up, are all participants in the same tort, if liable for tort at all. In such a case the plaintiff is not obliged to bring a separate action against one or each wrong doer, making him liable only from the time and place of his participation. *Livingston* v. *Bishop,* 1 Johns 290, 3 Am. Dec. 330; *Bissell* v. *Gold,* 1 Wend. 210, 19 Am. Dec. 480; *Guille* v. *Swan,* 19 Johns 381, 10 Am. Dec. 234; *Elder* v. *Morrison,* 10 Wend. 128. RICH, J., dissenting says, "It is apparent that the theory of the plaintiff's alleged cause of action is a conspiracy by and between the defendants. In the absence of a conspiracy, the separately alleged causes of action do not affect all the parties; neither would be liable for the act of the others, and a demurrer by each

defendant is properly interposed on the ground that there is a misjoinder of the causes of action. Civil Code § 488; *Nichols* v. *Drew*, 94 N. Y. 22. It is no answer that a good cause of action is pleaded against each demurrant. To maintain an action for conspiracy, the plaintiff must allege and prove an agreement or concert of action of the defendants. In the complaint under consideration no facts are alleged showing an agreement or concerted action in pursuance thereof by or between any of the defendants. The only relation shown between any of the acts is that they successively follow each other; but the act of each defendant was separate and distinct from that of each of the others, and they are not so connected as to establish them to have been the result of any agreement or concert of action, and are, therefore, insufficient to constitute a cause of action for conspiracy. This condition is not relieved by the allegations of conspiracy in subdivision 8, which are only the conclusions of the pleader, given without alleging any facts. Therefore the demurrers should have been sustained."

GARNISHMENT—LIABILITY OF EXECUTOR.—The plaintiffs who were cosureties with the defendant upon a promissory note, paid the note and now seek to recover from the defendant by garnisheeing him as executor for a debt owing to him personally from the estate of the deceased for commissions as executor. *Held*, that such a garnishment would lie. *Sanders and Walker* v. *Herndon et al.* (1906), — Ky. —, 93 S. W. Rep. 14.

This question is one which has been but very scantily treated by the courts, only two other cases being found which are directly in point. *Dudley* v. *Falkner*, 45 Ala. 148, holds in accord with the present case on the ground that the executor and the individual are separate and distinct entities in the contemplation of the law. On the other side of the question is the case of *Shepherd* v. *Bridenstine*, 80 Iowa 225, 45 N. W. 746, in which the decision is based largely on the ground that the debt is one due from the garnishee to himself and thus presumed to have been paid. Moreover, if judgment were rendered against the garnishee he might refuse to pay and then the only remedy would be a personal judgment against him which would be of no further utility than the first judgment.

HOMESTEAD—ALIENATION BY WIDOW—ABANDONMENT—LIMITATION OF ACTIONS.—One died seized of land which in his lifetime he occupied as a homestead, leaving surviving him, a widow and adult daughter. The land having been sold subject to the widow's homestead exemption, by order of court, the daughter brought ejectment to recover possession of the land so attempted to be conveyed: *Held*, that the sale was void and operated as an abandonment of the homestead claim and that the statute of limitations had run against the daughter's claim: *Griffin et al.* v. *Dunn et al.* (1906), — Ark. —, 96 S. W. Rep. 190.

A statute enacted that all actions for recovery of land sold under judicial sale should be brought within five years from date of sale. Does this statute apply to the facts of the principal case? Statutes similar to the one in Arkansas have been enacted in several of the states and decisions under them